HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION NO.16548 OF 2006

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Between:

The A.P. Co-op. Housing Society Federation Limited,
Bagh Lingampally, Hyderabad rep. by its Managing Director
B.Gopal Naik S/o Lok Nayak, R/o Hyderabad.

…Petitioner

A n d

The A.P. State Consumer Disputes Redressal Commission,
Hyderabad, A.P and others

…Respondents

:: **O R D E R** ::

Counsel for petitioner : Sri T.Srikanth Reddy

Counsel for respondents : Government Pleader for Civil Supplies

9th August 2006

Per G.V.Seethapathy, J

This writ petition has been filed seeking a writ of Certiorari calling for the records relating to F.A.No.598 of 2006 and quash order dated 20.06.2006 passed by the 1st respondent-A.P. State Consumer Disputes Redressal Commission, Hyderabad.

The third respondent herein (Complainant before the District Consumer Forum-1, Krishna District at Machilipatnam) availed a loan of Rs.1,00,000/- from the petitioner through the second respondent under HIG-II scheme agreeing to repay the entire loan amount in 20 equal monthly instalments. She deposited original sale deed No.2022/89, dated 21.06.1989 of Rs.40,000/- with the second respondent-Society. She repaid the entire loan amount due to the Society and the second respondent-Society issued `No due Certificate' on 10.09.2004. When the complainant approached the second respondent-Society seeking return of the original sale deed, the second respondent refused to return the same. As the document was not returned to her, she approached the District Consumer Forum-I, Krishna District at Machilipatnam (for short, the District Forum) complaining deficiency in service. The same was registered as C.D.90 of 2005.

The second respondent-Society took the stand that it is not the competent authority to issue no due certificate as the complainant executed the documents in favour of the petitioner herein, i.e., A.P.

Cooperative Housing Society Federation Limited (for short, the Federation). The original sale deed submitted by the complainant is in custody and possession of the petitioner-Federation, but not the second respondent and hence there is no deficiency in service on the part of the second respondent-Society.

The petitioner-Federation filed counter before the District Forum denying the allegation that the third respondent has paid the entire loan amount along with interest and obtained a clearance certificate. The title deed cannot be returned as it is a security for the loan and the third respondent has not cleared the loan. The second respondent-Society alone is responsible for return of the documents and hence there is no deficiency in service on its part.

The respondents 4 and 5 did not file any written statement before the District Forum.

By an order dated 9.3.2006, the District Forum allowed C.D.90 of 2005 and directed the petitioner and second respondent herein to return the sale deed No.2022/89 dated 21.6.1989 submitted by the complainant and to pay a sum of Rs.5,000/- towards compensation for mental agony and a sum of Rs.1,000/- towards costs to the complainant within one month from the date of receipt of the order.

The petitioner-Federation preferred an appeal before the A.P. State Consumer Disputes Redressal Commission (for short, the State Commission) in F.A.No.598 of 2006, which was dismissed on 20.6.2006. However, six weeks time was granted for compliance of the directions given by the District Forum.

Learned counsel for the petitioner invited our attention to the

averments contained in the affidavit filed by Sri B.Gopal Naik, Managing Director of the petitioner-Federation and argued that the directions given by the District Forum for return of the document to the third respondent and for payment of compensation to her should be declared as illegal and the orders under challenge may be quashed because the third respondent has not cleared the outstanding dues amounting to Rs.1,09,140/-. He then argued that the District Forum does not have the jurisdiction to entertain the complaint, which essentially raised a civil dispute.

In our opinion, there is no merit in either of the arguments. In the counter filed by the second respondent, it was not disputed that no due certificate has been issued to the third respondent. Therefore, the District Forum did not commit any illegality when it directed return of the document to the complainant (third respondent herein) and payment of compensation to her. In the face of admission made by the second respondent that it had issued no due certificate to the third respondent, the Federation was not justified in withholding the title deed. The dispute, if any, between the petitioner-Federation and the second respondent cannot justify withholding of the document of the third respondent. The complainant-the third respondent herein has nothing to do with the internal squabbles, if any, between the petitioner Federation and second respondent-Society in the matter of settlement of accounts interse between them. A borrower is certainly entitled for return of the title deeds by way of release from security when once the dues are cleared and no due certificate is also issued. The failure of the petitioner-Federation, which is admittedly having custody of the document, to return them to the complainant even after repayment of the entire loan amount is totally unjustifiable. Such failure would

certainly amount to deficiency in service within the meaning of the Consumer Protection Act.

The argument of the learned counsel that the complaint filed by third respondent gave raise to a civil dispute is without substance. There is no dispute regarding repayment of the loan inasmuch as the second respondent society has admittedly issued no due certificate on repayment of entire loan amount by the complainant. What remained thereafter is only return of the title deeds by way of release from security, which had to flow as a natural corollary to the repayment of the entire loan amount. As withholding of the document for no justifiable reason amounted to deficiency in service, the District Consumer Forum as well as the State Consumer Disputes Redressal commission are certainly having jurisdiction to deal with the matter under the provisions of the Consumer Protection Act. In fact, Section 3 of the Act is couched in such wide terms that the remedies under the Act are in addition to and not in derogation of any other law for the time being in force. The resort to the provisions of the Act in the factual matrix of the present case made by the complainant cannot be questioned and the orders passed by the District Forum or the State Commission cannot be challenged as being without jurisdiction.

For the reasons stated above, the writ petition is dismissed. No order as to costs.

G.V.SEETHAPATHY, J

G.S.SINGHVI, CJ

9th August 2006
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AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

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(Order of the Bench made by Hon'ble Sri Justice G.V.Seethapathy)

DATED : 09.08.2006